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Defendant Representing Himself

Electronically Filed
THIRD CIRCUIT
3CCV-23-0000167
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IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
STATE OF HAWAII

Dragon and Koi LLC,
A Hawaii Limited Liability
Company, and Elly Mercer
Plaintiffs

Civil No. 3CCV-23-0000167

vs

Ryan Thompson
Defendants

Response to: VERIFIED
COMPLAINT FOR
DECLARATORY RELIEF
AND JUDGMENT, EXPULSION
OF MEMBER; DISSOLUTION
OF LLC; EXHIBIT A; SUMMONS

Response to VERIFIED COMPLAINT FOR DECLARATORY RELIEF AND JUDGMENT;
EXPLUSION OF MEMBER; DISSOLUTION OF LLC

Defendant Dragon and Koi, LLC, and Ryan Thompson and against the named Plaintiff
allege and swear as follows:

The Parties

The Parties

1. The Plaintiff, Dragon and Koi (here in after referred to as "DK LLC"), is and at all times relevant was a domestic limited liability company registered and authorized to do
 2. business in the State of Hawaii.
 3. Plaintiff, Elly Merer (hereinafter referred to as "Plaintiff Mercer"), is and was at all times mentioned in this complaint, a resident of Hawaii County, State of Hawaii.
 4. The Defendant, Ryan Thompson, (hereinafter referred to as "Defendant"), is and was at all times mentioned in this complaint, a resident of Hawaii County, State of Hawaii.
- Defendants John Does 1-10 (hereinafter referred to as Doe defendant) are named here under fictitious names for the reason that their true names and identities are presently unknown to Plaintiff.

Jurisdiction and Venue

5. This matter is properly brought before this court pursuant to Haw. Rev. Stat. §§603-219 and personal jurisdiction of the parties pursuant to Haw. Rev. Stat. §634.
6. All incidents described herein took place with the jurisdiction of the Circuit Court of the Third Circuit, State of Hawaii.

Statement of Facts

7. This action is a response and is brought by Defendant Thompson and by DK LLC whose assets include jewelry and art inventory and fixtures located at 75-5744 Ali'i Drive, Suite 141, Kailua-Kona, Hawaii 96740.
8. DK LLC was registered in the State of Hawaii as Dragon and Koi LLC, file number 25058 C5, on July 28, 2022.

9. Ryan Thompson (Defendant Thompson is named as registered agent with a mailing address of 2547 Alawai Boulevard Unit 702, Honolulu, Hawaii 96815.
10. Plaintiff DK LLC is a member-managed limited liability company.
11. Plaintiff DK LLC is governed by the Operating Agreement that became effective on September 1, 2022, and was signed by the members on September 6, 2022. A copy of the Operating Agreement, signed by the members, is attached as Exhibit A.
12. The limited liability company has two members: Ryan Thompson and Elly Mercer.
13. Each member owns an equal share of the limited liability company.
14. The initial contribution by Defendant was \$10,000. The initial contribution by Plaintiff Mercer was \$20,000.
15. The business began operating in February, 2023 and held its open house on March 31, 2023.
16. Defendant Thompson has approximately \$3,000.00 in inventory and \$5,500.00 in equipment and fixtures at its principal business location.
17. The assets of DK LLC are fixtures, display cabinets, stereo system, speakers, servers, work benches, and tools. Defendant Thompson owns a significant amount of the fixtures.
18. At the time of the formation of the limited liability company, the parties were in an intimate relationship.
19. An altercation happened between the parties on March 31, 2023, and the responding officers issued the Plaintiff a 4 day restraining order the night of her arrest. The responding officers advised the Defendant to seek a more permanent restraining order. A copy of the initial restraining order issued by police to Defendant Thompson is attached and is known as Exhibit B.
20. Plaintiff Mercer's attorney emailed Defendant Thompson a request for mediation on April 9th. Defendant Thompson replied to the email and accepted the request for mediation. Email attached and known as Exhibit C.

21. On April 10th 2023 Defendant Thompson hand delivered and acceptance for mediation to Plaintiff's Attorney Eddy Cash-Dudely Attached and known as Exhibit D
22. Defendant Thompson contacted West Hawaii Mediation center to set up the mediation on April 13th 2023, because Defendant had not been contacted. Email is known as Exhibit E.
23. On April 13th 2023, an email reply from Plaintiff's Attorney indicated that the TRO needed an exception added to meet for mediation. Attached as Exhibit F
24. Defendant Thompson filed an motion to an exception for mediation. Attached and known as Exhibit G
25. The Plaintiff's attorney had written an email to myself and West Hawaii mediation center, declining mediation the last time Apr 26, 2023 at 5:44 PM. Attached and known as Exhibit H
26. Defendant Thompson sent Plaintiff Mercer's attorney a buy out agreement on April 9th 2023, and also hand delivered the buyout agreement on April 24th 2023 to Plaintiff's attorney. Known as Attached and known as Exhibit I
27. The Defendant's temporary restraining order, filed April 3, 2023, as case number 3FDA-23-0000296 was granted and the other member of the limited liability company, Plaintiff Mercer, was court ordered to have no contact with the Defendant.
28. Since the issuance of the mutual restraining orders, Defendant Thompson and Plaintiff are alternating working days in the storefront business.
29. Plaintiff is the CFO. Since the incidence on March 31st 2023. Plaintiff has since texted Defendant Thompson via her mother Peggy Peterson and has declined to allocate funds for hiring a sales representative. Despite that Defendant Thompson and Plaintiff were actively hiring on the day of the event on March 31st 2023. Text messages Attached and known as Exhibit J
30. Judicial expulsion of Plaintiff is sought on the basis that her actions during the night of March 31st 2023 when she attacked Defendant Thompson and his 9 year old daughter, has adversely effected the business dynamic based on the mutual restraining order of both parties and the fear and anxiety that working at the shop causes.

31. Plaintiffs conduct constitutes a violation of HRS 428-B-1 and also 428-409 B-3, and 428-801.
32. Defendant incorporate paragraphs 1-31 as fully set forth.
33. Defendant Thompson, cannot be in the store at the same time as Plaintiff as there are mutual restraining orders in effect for three years.
34. Although the parties agreed to rotate days in the store, Plaintiff does not always open the store on her scheduled days.
35. Plaintiff is actively engaging in slandering Defendant Thompson regarding the incident that gave rise to the restraining orders. Text message and video evidence attached and known as Exhibit K
36. Defendant Thompson sustained a concussion and lacerations all over his body during the incident that gave rise to the restraining orders, Defendant was seen at North Hawaii Hospital for his injuries. Attached and known as Exhibit L
37. Defendant Thompson is fearful for his safety and is fearful of Plaintiff coming to the store during his scheduled days and his children are often with him, one of which was also attacked by Plaintiff on the March 31st 2023 incident
38. Plaintiff refused medical services when she called police and when she was arrested on March 31st 2023. Audio evidence is attached and known as Exhibit M
39. Plaintiff was arrested on March 31, 2023 for felony domestic abuse of Defendant Thompson and his daughter. There are 3 felony counts and Plaintiff has since been indicted by Grand Jury on all 3 counts

40. Plaintiff has social media sites not related to the DK LLC and is mentioning DK LLC on other sites and sharing personal information about Defendant Thompson.
42. Plaintiff has slandered Defendant Thompson at the shop located at 75-5744 Ali'i Drive, Suite 141, Kailua Kona, HI 96743. Attached and known as Exhibit K
43. Defendant Thompson is seeking an immediate order for expulsion of Defendant by way of motion.
44. Plaintiff Mercer's attorney verified receiving the buyout agreement but there has been no agreement for required mediation as per Section IX. of the operating agreement
45. Defendant hereby incorporate Paragraphs 1-44 by reference as though fully set forth.
46. Members of the limited liability company are in a deadlock as the two members have equal authority and are court ordered not to have contact with each other, and the Defendant's lawyers are not communicating when the Defendant requests information about the business.
47. Plaintiff has engaged in conduct relating to the company's business that makes it not reasonably practicable to carry on the company's business with that member.
48. Plaintiff has acted and continues to act in a manner which is oppressive and unfairly prejudicial to the Defendant herein. Defendant needs the CFO who is Plaintiff approval for purchases for inventory and for hiring employees. When Defendant Thompson asks Defendant's Mercer's attorney for any responses or any approvals, Plaintiff Mercer's attorney's are non-responsive.

WHEREFORE, Defendant requests that the Court:

1. For Count 1, for a binding declaration and judgment that Defendant is expelled pursuant to H.R.S. 428 and the Operating Agreement of DK LLC for breaching the duty of loyalty and care.

3.

For all counts, award Defendant's Dragon and Koi, LLC and Ryan Thompson, reasonable attorney fees and costs of suit.

4. Such other and further relief as the Court deems just and equitable in the circumstances.

VERIFICATION

STATE OF HAWAII }
COUNTY OF HAWAII } SS.

I, Ryan Thompson, as Member of Dragon and Koi, LLC, and
Ryan Thompson, as an individual, being duly sworn, depose
and say that I am a member of the Defendant and a member of . complaint. The
Dragon and Koi and the facts

facts stated therein are within my knowledge and are true and correct, except those matters stated on information and belief, and, as to those, I believe them to be true and correct. I declare under penalty of perjury under the laws of the State of Hawai'i that the foregoing is true and correct.

Athorized Member of Dragon and Koi LLC

Ryan Thompson

Dated:04.29.2023

Ryan Richard Thompson

Defendant

Dated 04.09.2023

Ryan Thompson

Ryan Richard Thompson

Pages: 8

EXHIBIT A

**Limited Liability Company Agreement of
Dragon and Koi LLC
A Limited Liability Company**

THIS OPERATING AGREEMENT (this "Agreement") of Dragon and Koi LLC, (the "Company"), is executed and agreed to, for good and valuable consideration, by the undersigned members (the "Members").

I. Formation.

- A. State of Formation. This is a Limited Liability Company Operating Agreement (the "Agreement") for Dragon and Koi LLC, a Member-managed Hawaii limited liability company (the "Company") formed under and pursuant to Hawaii law.
- B. Operating Agreement Controls. To the extent that the rights or obligations of the Members or the Company under provisions of this Operating Agreement differ from what they would be under Hawaii law absent such a provision, this Agreement, to the extent permitted under Hawaii law, shall control.
- C. Primary Business Address. The location of the primary place of business of the Company is:

2547 Ala Wai Blvd #702,, Honolulu, Hawaii 96815, or such other location as shall be selected from time to time by the Members.
- D. Registered Agent and Office. The Company's initial agent (the "Agent") for service of process is Dragon and Koi LLC. The Agent's registered office is 2547 Ala Wai Blvd #702,, Honolulu, Hawaii 96815. The Company may change its registered office, its registered agent, or both, upon filing a statement with the Hawaii Secretary of State.
- E. No State Law Partnership. No provisions of this Agreement shall be deemed or construed to constitute a partnership (including, without limitation, a limited partnership) or joint venture, or any Member a partner or joint venturer of or with any other Member, for any purposes other than federal and state tax purposes.

II. Purposes and Powers.

- A. Purpose. The Company is created for the following business purpose:

Will design, create and sell jewelry, and luxury time pieces in a retail environment
- B. Powers. The Company shall have all of the powers of a limited liability company set forth under Hawaii law.
- C. Duration. The Company's term shall commence upon the filing of an Articles of Organization and all other such necessary materials with the state of Hawaii. The Company will operate until terminated as outlined in this Agreement unless:
 - 1. The Members vote unanimously to dissolve the Company;
 - 2. No Member of the Company exists, unless the business of the Company is continued in a manner permitted by Hawaii law;
 - 3. It becomes unlawful for either the Members or the Company to continue in business;

4. A judicial decree is entered that dissolves the Company; or
5. Any other event results in the dissolution of the Company under federal or Hawaii law.

III. Members.

- A. Members. The Members of the Company (jointly the "Members") and their Membership Interest at the time of adoption of this Agreement are as follows:

Elly Mercer, 50%

Ryan Thompson, 50%

- B. Initial Contribution. Each Member shall make an Initial Contribution to the Company. The Initial Contributions of each shall be as described in Attachment A, Initial Contributions of the Members

No Member shall be entitled to interest on their Initial Contribution. Except as expressly provided by this Agreement, or as required by law, no Member shall have any right to demand or receive the return of their Initial Contribution. Any modifications as to the signatories' respective rights as to the receipt of their initial contributions must be set forth in writing signed by all interested parties.

- C. Limited Liability of the Members. Except as otherwise provided for in this Agreement or otherwise required by Hawaii law, no Member shall be personally liable for any acts, debts, liabilities or obligations of the Company beyond their respective Initial Contribution, including liability arising under a judgment, decree or order of a court. The Members shall look solely to the Company property for the return of their Initial Contribution, or value thereof, and if the Company property remaining after payment or discharge of the debts, liabilities or obligations of the Company is insufficient to return such Initial Contributions, or value thereof, no Member shall have any recourse against any other Member except as is expressly provided for by this Agreement or as otherwise allowed by law.

- D. Death, Incompetency, Resignation or Termination of a Member. Should a Member die, be declared incompetent, or withdraw from the Company voluntarily or involuntarily, the remaining Members will have the option to buy out that Member's Membership Interest in the Company. If a Member is removed involuntarily, it must be by vote recorded in the official minutes. If a Member resigns, they should submit a notarized resignation letter to the Registered Agent. Should the Members agree to buy out the Membership Interest of the withdrawing Member, that Interest shall be paid for equally by the remaining Members and distributed in equal amounts to the remaining Members. The Members agree to hire an outside firm to assess the value of the Membership Interest.

The Members will have 90 days to decide if they want to buy the Membership Interest together and disperse it equally. If all Members do not agree to buy the Membership Interest, individual Members will then have the right to buy the Membership Interest individually. If more than one Member requests to buy the remaining Membership Interest, the Membership Interest will be paid for and split equally among those Members wishing to purchase the Membership Interest. If all Members agree by unanimous vote, the Company may choose to allow a non-Member to buy the Membership Interest thereby replacing the previous Member.

If no individual Member(s) finalize a purchase agreement by 90 days, the withdrawing Member, or their estate, may dispose of their Membership Interest however they see fit, subject to the limitations in Section III (E) below. If a Member is a corporation, trust, partnership, limited

liability company or other entity and is dissolved or terminated, the powers of that Member may be exercised by its legal representative or successor.

The name of the Company may be amended upon the written and unanimous vote of all Members if a Member withdraws, dies, is found incompetent or is terminated.

E. Creation or Substitution of New Members. Any Member may assign in whole or in part its Membership Interest only after granting their fellow Members the right of first refusal, as established in Section III (D) above.

1. *Entire transfer.* If a Member transfers all of its Membership Interest, the transferee shall be admitted to the Company as a substitute Member upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement. Such admission shall be deemed effective immediately upon the transfer, and, simultaneously, the transferor Member shall cease to be a Member of the Company and shall have no further rights or obligations under this Agreement.
2. *Partial transfer.* If a Member transfers only a portion of its Membership Interest, the transferee shall be admitted to the Company as an additional Member upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement.
3. Whether a substitute Member or an additional Member, absent the written consent of all existing Members of the Company, the transferee shall be a limited Member and possess only the percentage of the monetary rights of the transferor Member that was transferred without any voting power as a Member in the Company.

F. Member Voting.

1. *Voting power.* The Company's Members shall each have voting power equal to their share of Membership Interest in the Company.
2. *Proxies.* At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. Such proxy shall be delivered to the other Members of the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

G. Duties of the Members. The Members shall cause the Company to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises. The Members also shall cause the Company to:

1. Maintain its own books, records, accounts, financial statements, stationery, invoices, checks and other limited liability company documents and bank accounts separate from any other person;
2. At all times hold itself out as being a legal entity separate from the Members and any other person and conduct its business in its own name;
3. File its own tax returns, if any, as may be required under applicable law, and pay any taxes required to be paid under applicable law;
4. Not commingle its assets with assets of the Members or any other person, and separately identify, maintain and segregate all Company assets;

5. Pay its own liabilities only out of its own funds, except with respect to organizational expenses;
6. Maintain an arm's length relationship with the Members, and, with respect to all business transactions entered into by the Company with the Members, require that the terms and conditions of such transactions (including the terms relating to the amounts paid thereunder) are the same as would be generally available in comparable business transactions if such transactions were with a person that was not a Member;
7. Pay the salaries of its own employees, if any, out of its own funds and maintain a sufficient number of employees in light of its contemplated business operations;
8. Not guarantee or become obligated for the debts of any other person or hold out its credit as being available to satisfy the obligations of others;
9. Allocate fairly and reasonably any overhead for shared office space;
10. Not pledge its assets for the benefit of any other person or make any loans or advances to any person;
11. Correct any known misunderstanding regarding its separate identity;
12. Maintain adequate capital in light of its contemplated business purposes;
13. Cause its Members to meet or act pursuant to written consent and keep minutes of such meetings and actions and observe all other Hawaii limited liability company formalities;
14. Make any permitted investments directly or through brokers engaged and paid by the Company or its agents;
15. Not require any obligations or securities of the Members; and
16. Observe all other limited liability formalities.

Failure of the Members to comply with any of the foregoing covenants shall not affect the status of the Company as a separate legal entity or the limited liability of the Members.

H. Fiduciary Duties of the Members

1. *Loyalty and Care.* Except to the extent otherwise provided herein, each Member shall have a fiduciary duty of loyalty and care similar to that of members of limited liability companies organized under the laws of Hawaii.
2. *Competition with the Company.* The Members shall refrain from dealing with the Company in the conduct of the Company's business as or on behalf of a party having an interest adverse to the Company unless a majority, by individual vote, of the Members excluding the interested Member, consents thereto. The Members shall refrain from competing with the Company in the conduct of the Company's business unless a majority, by individual vote, of the Members excluding the interested Member, consents thereto. In the event that a Member is the sole Member of the Company, no vote shall be required.
3. *Duties Only to the Company.* The Member's fiduciary duties of loyalty and care are to the

Company and not to the other Members. The Members shall owe fiduciary duties of disclosure, good faith and fair dealing to the Company and to the other Members. A Member who so performs their duties shall not have any liability by reason of being or having been a Member.

4. *Reliance on Reports.* In discharging the Member's duties, a Member is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:
 - i. One or more Members or employees of the Company whom the Member reasonably believes to be reliable and competent in the matters presented.
 - ii. Legal counsel, public accountants, or other persons as to matters the Member reasonably believes are within the persons' professional or expert competence.
 - iii. A committee of Members of which the affected Member is not a participant, if the Member reasonably believes the committee merits confidence.

- I. Waiver of Partition; Nature of Interest. Except as otherwise expressly provided in this Agreement, to the fullest extent permitted by law, each Member hereby irrevocably waives any right or power that such Member might have to cause the Company or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of the Company, to compel any sale of all or any portion of the assets of the Company pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of the Company. No Member shall have any interest in any specific assets of the Company.
- J. Compensation of Members. The Members shall have the authority to fix the compensation of individual Members. All Members may be paid their expenses, if any, of attendance at meetings of the Members, which may be a fixed sum for attendance at each meeting of the Members or a stated salary as a Member. No such payment shall preclude any Member from serving the Company in any other capacity and receiving compensation therefor.
- K. Members as Agents. All Members are agents of the Company for the purpose of its business. An act of any Member, including the signing of an instrument in the Company's name, binds the Company where the Member executed the act for apparently carrying on the Company's business or business of the kind carried on by the Company in the ordinary course, unless the Member had no authority to act for the Company in the particular matter and the person with whom the Member was dealing knew or had notice that the Member lacked authority. An act of a Member binds the Company, however, even where the Member executed the act not apparently for carrying on the Company's business or business of the kind carried on by the Company in the ordinary course only if the act was authorized by the other Members.

IV. **Accounting and Distributions.**

- A. Fiscal Year. The Company's fiscal year shall end on the last day of December.
- B. Records. All financial records including tax returns and financial statements will be held at the Company's primary business address and will be accessible to all Members.
- C. Distributions. Distributions shall be issued on a monthly basis, based upon the Company's fiscal year. The distribution shall not exceed the remaining net cash of the Company after making

appropriate provisions for the Company's ongoing and anticipatable liabilities and expenses. Each Member shall receive a percentage of the overall distribution that matches that Member's percentage of Membership Interest in the Company.

V. Tax Treatment Election.

The Company has not filed with the Internal Revenue Service for treatment as a corporation. Instead, the Company will be taxed as a pass-through organization. The Members may elect for the Company to be treated as a C-Corporation, S-Corporation or a Partnership at any time.

VI. Dissolution.

- A. Limits on Dissolution. The Company shall have a perpetual existence, and shall be dissolved, and its affairs shall be wound up only upon the provisions established in Section II (C) above.

Notwithstanding any other provision of this Agreement, the Bankruptcy of any Member shall not cause such Member to cease to be a Member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution.

Each Member waives any right that it may have to agree in writing to dissolve the Company upon the Bankruptcy of any Member or the occurrence of any event that causes any Member to cease to be a Member of the Company.

- B. Winding Up. Upon the occurrence of any event specified in Section II(C), the Company shall continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors. One or more Members, selected by the remaining Members, shall be responsible for overseeing the winding up and liquidation of the Company, shall take full account of the liabilities of the Company and its assets, shall either cause its assets to be distributed as provided under this Agreement or sold, and if sold as promptly as is consistent with obtaining the fair market value thereof, shall cause the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed as provided under this Agreement.
- C. Distributions in Kind. Any non-cash asset distributed to one or more Members in liquidation of the Company shall first be valued at its fair market value (net of any liability secured by such asset that such Member assumes or takes subject to) to determine the profits or losses that would have resulted if such asset were sold for such value, such profit or loss shall then be allocated as provided under this Agreement. The fair market value of such asset shall be determined by the Members or, if any Member objects, by an independent appraiser (any such appraiser must be recognized as an expert in valuing the type of asset involved) approved by the Members.
- D. Termination. The Company shall terminate when (i) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company, shall have been distributed to the Members in the manner provided for under this Agreement and (ii) the Company's registration with the state of Hawaii shall have been canceled in the manner required by Hawaii law.
- E. Accounting. Within a reasonable time after complete liquidation, the Company shall furnish the Members with a statement which shall set forth the assets and liabilities of the Company as at the date of dissolution and the proceeds and expenses of the disposition thereof.
- F. Limitations on Payments Made in Dissolution. Except as otherwise specifically provided in this Agreement, each Member shall only be entitled to look solely to the assets of the Company for the return of its Initial Contribution and shall have no recourse for its Initial Contribution and/or share of profits (upon dissolution or otherwise) against any other Member.

- G. Notice to Hawaii Authorities. Upon the winding up of the Company, the Member with the highest percentage of Membership Interest in the Company shall be responsible for the filing of all appropriate notices of dissolution with Hawaii and any other appropriate state or federal authorities or agencies as may be required by law. In the event that two or more Members have equally high percentages of Membership Interest in the Company, the Member with the longest continuous tenure as a Member of the Company shall be responsible for the filing of such notices.

VII. Exculpation and Indemnification.

- A. No Member, employee or agent of the Company and no employee, agent or affiliate of a Member (collectively, the "Covered Persons") shall be liable to the Company or any other person who has an interest in or claim against the Company for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence or willful misconduct.
- B. To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement. Expenses, including legal fees, incurred by a Covered Person defending any claim, demand, action, suit or proceeding shall be paid by the Company. The Covered Person shall be liable to repay such amount if it is determined that the Covered Person is not entitled to be indemnified as authorized in this Agreement. No Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's gross negligence or willful misconduct with respect to such acts or omissions. Any indemnity under this Agreement shall be provided out of and to the extent of Company assets only.
- C. A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any person as to matters the Covered Person reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, or any other facts pertinent to the existence and amount of assets from which distributions to the Members might properly be paid.
- D. To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Company or to any other Covered Person, a Covered Person acting under this Agreement shall not be liable to the Company or to any other Covered Person for its good faith reliance on the provisions of this Agreement. The provisions of the Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Covered Person.
- E. The foregoing provisions of this Article VII shall survive any termination of this Agreement.

VIII. Insurance.

The Company shall have the power to purchase and maintain insurance, including insurance on behalf of any Covered Person against any liability asserted against such person and incurred by such Covered Person in any such capacity, or arising out of such Covered Person's status as an

agent of the Company, whether or not the Company would have the power to indemnify such person against such liability under the provisions of Article VII or under applicable law. This is separate and apart from any business insurance that may be required as part of the business in which the Company is engaged.

IX. Settling Disputes.

All Members agree to enter into mediation before filing suit against any other Member or the Company for any dispute arising from this Agreement or Company. Members agree to attend one session of mediation before filing suit. If any Member does not attend mediation, or the dispute is not settled after one session of mediation, the Members are free to file suit. Any law suits will be under the jurisdiction of the state of Hawaii.

X. Independent Counsel.

All Members entering into this Agreement have been advised of their right to seek the advice of independent legal counsel before signing this Agreement. All Members and each of them have entered into this Agreement freely and voluntarily and without any coercion or duress.

XI. General Provisions.

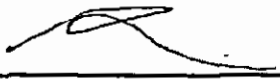
- A. Notices. All notices, offers or other communications required or permitted to be given pursuant to this Agreement shall be in writing and may be personally served or sent by United States mail and shall be deemed to have been given when delivered in person or three (3) business days after deposit in United States mail, registered or certified, postage prepaid, and properly addressed, by or to the appropriate party.
- B. Number of Days. In computing the number of days (other than business days) for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday on which national banks are or may elect to be closed, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or such holiday.
- C. Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which shall together constitute one and the same instrument.
- D. Severability. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.
- E. Headings. The Article and Section headings in this Agreement are for convenience and they form no part of this Agreement and shall not affect its interpretation.
- F. Controlling Law. This Agreement shall be governed by and construed in all respects in accordance with the laws of the state of Hawaii (without regard to conflicts of law principles thereof).
- G. Application of Hawaii Law. Any matter not specifically covered by a provision of this Agreement shall be governed by the applicable provisions of Hawaii law.
- H. Amendment. This Agreement may be amended only by written consent of all the Members. Upon obtaining the approval of any such amendment, supplement or restatement as to the Certificate, the Company shall cause a Certificate of Amendment or Amended and Restated Certificate to be prepared, executed and filed in accordance with Hawaii law.

- I. Entire Agreement. This Agreement contains the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained.

IN WITNESS WHEREOF, the Members have executed and agreed to this Limited Liability Company Operating Agreement, which shall be effective as of September 01, 2022.

By: Elly Mercer
Elly Mercer

Date: 09/06/2022

By: 
Ryan Thompson

Date: 09/06/2022

ATTACHMENT A
Initial Contributions of the Members

The Initial Contributions of the Members of Dragon and Koi LLC are as follows:

Elly Mercer

Contribution:

Cash: \$20,000.00

Intellectual and creative contributions valued at \$10,000.00

Ryan Thompson

Contribution:

Intellectual and creative contributions, website, design, and prototyping valued at \$10,000.00

**HAWAII POLICE DEPARTMENT
ABUSE OF FAMILY OR HOUSEHOLD MEMBERS
WARNING CITATION**

VICTIM'S NAME <u>Ryan Thompson</u>		REPORT NO. <u>23-031955</u>
VICTIM'S ADDRESS <u>645284 Keolu Dr. Honolulu</u>		DISTRICT <u>KN</u>
SUSPECT'S NAME <u>Elly Mercer</u>		
AGE <u>48</u>	YEAR OF BIRTH <u>1975</u>	LAST (4) OF SOCIAL SECURITY NO. <u>1545 051</u>
DATE/TIME OF OFFENSE <u>3/31/2023 2031 Hrs</u>		<u>23-</u>

Pursuant to Section 709-906, Hawai'i Revised Statutes, as amended, you are hereby ordered to leave the premises located at:

955

for a period of separation. The period of separation shall commence when the order is issued and shall expire at 6:00 p.m. (1800 hours) on the second business day following the day the order was issued; provided that the day the order is issued shall not be included in the computation of the two business days;

"Business day" means any calendar day, except Saturday, Sunday, or any state holiday.

BEGINNING DATE/TIME: 3/31/2023 2031 ENDING DATE/TIME: 4/04/2023 1800

I understand that I shall not initiate any contact, either by telephone or in person, or by any other means, with the family or household member for the duration of this Warning Citation.

Failure to comply with this lawful order of a police officer is a misdemeanor. Any person convicted under this section for their first offense shall serve a minimum jail sentence of forty-eight (48) hours and for a second offense that occurs within one (1) year of the first conviction, the person shall serve a minimum jail sentence of thirty (30) days. Whenever a court sentences a person that person shall be required to undergo any available domestic violence intervention programs ordered by the court. The maximum fine of \$2,000 and/or an ordinary term of imprisonment the maximum of which is one (1) year.

For a third or any subsequent offense that occurs within (2) years of a second or subsequent conviction, the offense shall be a class C felony. The maximum fine of \$10,000 and/or an ordinary term of imprisonment the maximum of which is five (5) years.

I have been given a reasonable amount of time to gather my necessary personal effects, under police escort, in order to facilitate my absence from the premises for the duration of this Warning Citation.

I understand the above terms as it has been explained to me.

Suspect Signature <u>Elly Mercer</u>	Date <u>4/1/23</u>	Time <u>1:25 AM</u>
Witness Signature	Date	Time
Officer Signature <u>[Signature]</u>	Employee No. <u>9244</u>	Date <u>4/1/23</u> Time <u>12:00</u>

Original - Records (White)
1 copy - Victim (Pink)
1 copy - Suspect (Yellow)

FAMILY COURT OF THE THIRD CIRCUIT
STATE OF HAWAII

Ryan Richard
Thompson Defendant

3FDA-23-00310

-vs-

Elly Odette Mercer
Plaintiff

MOTION TO REQUEST MEDIATION IN TRO

With regard to the Temporary Restraining Order 33FDA-23-00310 Ryan Thompson vs. Elly Mercer

On April 10th 2023 for our first show of cause for a TRO of Ryan Thompson (petitioner) vs. Elly Mercer (respondent), Elly Mercer's attorney Mrs Eddy Cash-Dudley hand delivered to me a request for mediation for a business matter. At the same time Mrs. Cash-Dudely requested the court to allow an exception for the mediation in both TROs. There is a TRO for Ryan Thompson vs. Elly Mercer, and then a TRO that Elly Mercer later filed of Elly Mercer vs. Ryan Thompson.

I agree to the mediation request.

I am also requesting mediation for the TRO and the related domestic issues surrounding the TRO's.

The cases are as follows

3FDA-23-00310
and
33FDA-23-00296

STATE OF HAWAII

COUNTY OF HAWAII

SUBSCRIBED AND SWORN TO BEFORE

ME, on the _____ day of

_____, _____

Ryan Thompson

(Signature)

Signature _____

(Seal)

NOTARY PUBLIC

My Commission expires:

Ryan Richard Thompson

Dated: 04/21/2023

STATE OF HAWAII

COUNTY OF HAWAII

SUBSCRIBED AND SWORN TO BEFORE
ME, on the _____ day of

_____, _____

Signature _____

(Seal)

NOTARY PUBLIC

My Commission expires:

Ryan Thompson

(Signature)

Ryan Richard Thompson

E. F. CASH-DUDLEY
POST OFFICE BOX 814
KAMUELA, HAWAII 96743
efcashdudley@gmail.com
808-854-5912

April 10, 2023

Mr. Ryan Thompson
Dragon and Koi LLC
75-5744 Ali'i Drive
Suite 141
Kailua-Kona, Hawaii

HAND DELIVERED

Dear Mr. Thompson:

Article IX of the Operating Agreement of the Dragon and Koi LLC requires that the members of the company enter into mediation prior to filing suit against any other member. Ms. Mercer intends to file a lawsuit against you for the involuntary dissolution of the company and have you removed as a member.

She will be in contact with West Hawaii Mediation Center to initiate the mediation process. They will be contacting you directly.

Sincerely,

E. F. Cash-Dudley



Exhibit E

Ryan Thompson <techpronow@gmail.com>

Mediation for Dragon and Koi LLC Ryan Thompson / Elly Mercer

11 messages

Ryan Thompson <techpronow@gmail.com>
To: ksims@whmediation.org

Thu, Apr 13, 2023 at 11:40 AM

Contact information for Ryan Thompson
808-365-6628
techpronow@gmail.com

Contact information for Elly Mercer
808-937-4540
sokonahi@gmail.com

Elly's lawyer is Eddy Cash-Dudley

We need mediation asap.

This is my buyout offer;

 Ryan Thompson <ryan@dragonkoi.com>
to Peggy@whmediation.org "Eddy" <eddy@cashdudley.com>
Alone Mrs. Cash Dudley

Sun, Apr 16, 2023 PM (4 days ago) ☆ ↻ ⌵

Elly may be able to share with you a "buy out agreement" that I offered her in January. This was of course UET/DKE, the store was open, and before I put in significant work in the construction and design of the store. Now that the store is open, as per my original agreement that I entered. My price would be higher for a full buyout.

I would also offer to buy Elly out of this business as well. We can talk details. I wouldn't be able to offer a cash buyout. But I would be able to offer payments of a percentage of the monthly profits. Elly could also take her "Sokolani" jewelry out of the store, and I could replace it with something else.

My thought is, on either side of the buy out. The price would be something in the range of \$50,000. Monthly payments could be made of around \$5000 until the total is paid in full. Or on whatever percentage we decide, whichever is higher.

If I buy out Elly, I would assume the American Express debt that belongs to the business, and the \$15,000 debt that is owed to the other bank as well. A total of about \$17,000 there, and roughly \$2000 in loans that Dragon and Koi LLC would take the write off and "Sokolani Jewel LLC".

And if Elly buys me out, then she would assume all of these debts on her end.

Either way the total buy out would be the same for either party. I would take monthly payments as well if bought out.

However, I am happy to continue operating this business, and with Elly not being my business partner, I could actually hire, and co-own this business's property.

There is no need for either of us to suffer being partners any more. But I do expect compensation for all of my efforts and intellectual contribution in design and building etc.

\$50,000 seems extremely reasonable.

Michael

Best regards,
Ryan Thompson
Phone: 808-206-7399
Mobile: 808-365-6628
Calendar/Schedule Appointment
<https://calendly.com/techpronow>
HiHello For Ryan

Disclaimer;

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this

5/1/23, 5:03 AM

Gmail - Mediation for Dragon and Koi LLC Ryan Thompson / Elly Mercer

e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

ksims@whmediation.org <ksims@whmediation.org>
To: Ryan Thompson <techpronow@gmail.com>

Thu, Apr 13, 2023 at 11:49 AM

Thanks, Ryan.

A quick question: do the TROs permit you to be in mediation with each other? We can mediate via Zoom (and that seems more likely given the situation), so proximity won't be an issue, but sometimes a TRO specifies that you can only communicate via text or email. (We can't violate the TROs in scheduling a mediation.) In that case, you'd need to amend the TROs to permit us to mediate.

Let me know.

Kate

Kate Sims, Mediation Coordinator and Workplace Mediation
West Hawai'i Mediation Center
(808) 664-4347

The information contained in this electronic message (or attached hereto) is intended only for the individual or entity to which it is addressed and may contain information that is confidential and protected by law. If you are not the intended recipient of this email, you are cautioned that use of its contents in any way is prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by e-mail or telephone and return the original message by e-mail to the sender or to ksims@whmediation.org.

[Quoted text hidden]

Ryan Thompson <techpronow@gmail.com>
To: ksims@whmediation.org, EDDY CASH-DUDLEY <efcashdudley@gmail.com>

Thu, Apr 13, 2023 at 12:12 PM

I believe Mrs. Cash-Dudley made the request to the court to allow us to have the mediation.

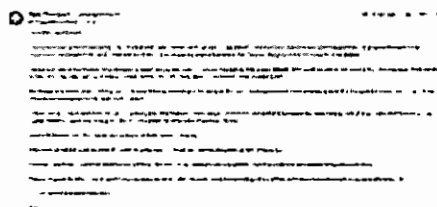
I will CC her and ask.

However Zoom works for me as well.

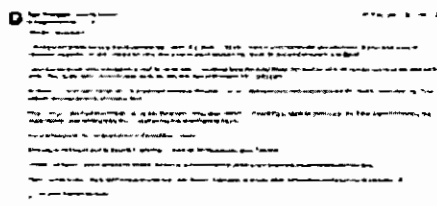
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[Quoted text hidden]

2 attachments



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Ryan Thompson <techpronow@gmail.com>

Wed, Apr 26, 2023 at 4:07 PM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com

Aloha Barbara Franklin, and Eddy Cash-Dudley,

Below is an email from April 13th 2023. Since one thing crosses over to the other things, and Mrs. Cash-Dudley seems to represent both topics of rental/house, and criminal/domestic stuff, I am Ccing you both.

I made Elly an offer below, and I think it is reasonable.

I don't know if the dynamics are agreed upon. Such as, will we just keep the lease in place, as is, without changing it? Or do we need to change it? Or can we even change it? This is for the business issue. But my buyout agreement is below for the business.

I also have secured a home and I am moving out on or by Friday. Hopefully tomorrow I will have moved out, and cut the lawn, etc.

But I may need another day for the lawn and such.

I will take a move-out video. Just like the video that I sent on April 10th. I will show what I have taken of my property and left of hers.

I will clean as good as I can with what little time I have left. However, I have pictures of what it looked like when we first moved in last November, and it will look at very least better than that.

I do request mediation for the business and domestic matters. I have asked for that since April 10th. Mrs. Cash-Dudley also asked for mediation, but then retracted her request in court.

I am still asking for mediation. If we need to speak with the court to make that exception, then we do. Because we should have agreed to this at the last court hearing, but Eddy and her client was being obstinate. So we may have to return to court to get that exception added to the TRO. But mediation is our next step, so we can figure out if these terms are even possible,

Mahalo

Ryan Thompson <techpronow@gmail.com>
to EDDY CASH-DUDLEY, EDDY CASH-DUDLEY
Aloha Mrs. Cash-Dudley

Elly may be after to there is a buy out agreement that I entered into in January. That was of course BEFORE the store was open, and before I put in significant work in the construction and design of the store. Now that the store is open, as per my original agreement that I offered, Elly would be required to pay for a buyout.

I wouldn't offer to buy Elly out of the business as well. We can talk details. I wouldn't be able to offer a cash buyout. But I would be able to offer payments of a percentage of the monthly profits. Elly could also have the business as a lease/tenancy out of the store, and I could replace it with something else.

Elly thought is on either side of the buy out. The price would be something in the range of \$50,000. Monthly payments could be made at around \$5,000 until the total is paid in full. Or on whatever percentage we decide, whichever is higher.

If I buy out Elly, I would assume the American Express debt that belongs to the business, and the \$15,000 debt that is owed to the other bank as well. A total of about \$17,000 there, and roughly \$2,000 to cover that Dragon and Koi LLC would have the wife off, not Susan's House LLC.

And if Elly buys me out, then she would assume all of those debts on her end.

Either way the total buy out would be the same for either party. I would take monthly payments as well if bought out.

However, I am happy to continue operating the business, and with Elly not being my business partner, I could actually help, and operate this business properly.

There is no need for either of us to suffer being partners anymore. But I do expect compensation for all of my efforts, and intellectual contribution in design and building, etc.

\$50,000 seems extremely reasonable.

Mahalo

[Quoted text hidden]

Ryan Thompson <techpronow@gmail.com>
to EDDY CASH-DUDLEY, EDDY CASH-DUDLEY
Aloha Mrs. Cash-Dudley

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\$50,000 seems extremely reasonable.

Mahalo

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Ryan Thompson <techpronow@gmail.com>

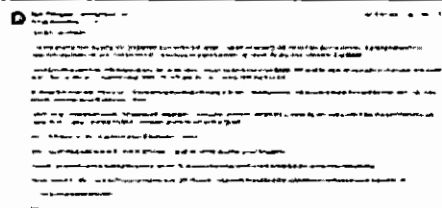
Wed, Apr 26, 2023 at 4:44 PM

To: ksims@whmediation.org, EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com

Once again, I believe we need mediation.

Please see the email below. Im including West Hawaii Mediation center, as referred by Eddy Cash-Dudley.

Sincerely,
Ryan Thompson
[Quoted text hidden]



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EDNA CASH-DUDLEY <efcashdudley@gmail.com>
To: Ryan Thompson <techpronow@gmail.com>

Wed, Apr 26, 2023 at 5:44 PM

My client does not agree to mediation. Eddy

Sent from my iPhone

On Apr 26, 2023, at 4:08 PM, Ryan Thompson <techpronow@gmail.com> wrote:

Aloha Barbara Franklin, and Eddy Cash-Dudley,

Below is an email from April 13th 2023. Since one thing crosses over to the other things, and Mrs. Cash-Dudley seems to represent both topics of rental/house, and criminal/domestic stuff, I am Ccing you both.

I made Elly an offer below, and I think it is reasonable.

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But I may need another day for the lawn and such.

I will take a move-out video. Just like the video that I sent on April 10th. I will show what I have taken of my property and left of hers.

I will clean as good as I can with what little time I have left. However, I have pictures of what it looked like when we first moved in last November, and it will look at very least better than that.

I do request mediation for the business and domestic matters. I have asked for that since April 10th. Mrs. Cash-Dudley also asked for mediation, but then retracted her request in court.

I am still asking for mediation. If we need to speak with the court to make that exception, then we do. Because we should have agreed to this at the last court hearing, but Eddy and her client was being obstinate. So we may have to return to court to get that exception added to the TRO. But mediation is our next step, so we can figure out if these terms are even possible,

Mahalo

[Quoted text hidden]

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EDNA CASH-DUDLEY <efcashdudley@gmail.com>
To: Ryan Thompson <techpronow@gmail.com>

Wed, Apr 26, 2023 at 5:44 PM

We will not participate in mediation. Eddy

Sent from my iPhone

On Apr 26, 2023, at 4:44 PM, Ryan Thompson <techpronow@gmail.com> wrote:

Once again, I believe we need mediation.

Please see the email below. Im including West Hawaii Mediation center, as referred by Eddy Cash-Dudley.

Sincerely,
Ryan Thompson

----- Forwarded message -----

From: **Ryan Thompson** <techpronow@gmail.com>
Date: Wed, Apr 26, 2023 at 4:07 PM
Subject: Fwd: Mediation for Dragon and Koi LLC Ryan Thompson / Elly Mercer
To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, <barbara@island-law.com>

Aloha Barbara Franklin, and Eddy Cash-Dudley,

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Mahalo

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Ryan Thompson <techpronow@gmail.com>
To: EDNA CASH-DUDLEY <efcashdudley@gmail.com>

Wed, Apr 26, 2023 at 6:07 PM

I feel like your client wants me to make all of the offers.

I have given two. One with out products, cash only.

Or one that includes the watches.

You have rejected both of them.

Next step is.

1. She makes an offer

2. We go to mediation

I don't see a third option.

[Quoted text hidden]

[Quoted text hidden]

EDNA CASH-DUDLEY <efcashdudley@gmail.com>
To: Ryan Thompson <techpronow@gmail.com>

Wed, Apr 26, 2023 at 10:11 PM

Ryan, did not see an actual number with your leaving without inventory.
That would give us a starting point. There will be no mediation.
Eddy

Sent from my iPhone

On Apr 26, 2023, at 6:07 PM, Ryan Thompson <techpronow@gmail.com> wrote:

[Quoted text hidden]

Ryan Thompson <techpronow@gmail.com>
To: EDNA CASH-DUDLEY <efcashdudley@gmail.com>

Thu, Apr 27, 2023 at 3:42 AM

I have over and over and over

She asked me to buy her out on March 28th

I gave her my terms.

My terms to buy her out, were the same terms I offered her to buy me out

And I have proposed a payment plan to make it easier

I have given those same numbers twice in the past 18 hours

I really can't be more clear

[Quoted text hidden]

[Quoted text hidden]

Ryan Thompson <techpronow@gmail.com>

Thu, Apr 27, 2023 at 3:49 AM

To: EDNA CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com, ksims@whmediation.org

My terms that I wrote up on April 9th are in this actual email thread.

Again if your client has her own thoughts. Have her make a proposal of her own

My offer is more than fair.

But I understand cash is tight.

Which is why I offered a payment plan. That would last 10 months

Or I offered a lower cash number, but then it also includes the watches.

I've tried to be flexible and accommodating

Otherwise, I'm happy to continue on running the business as COO.

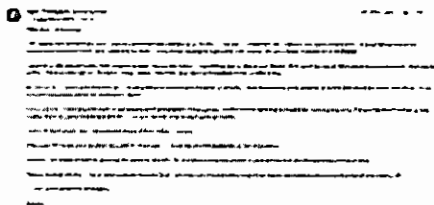
I had a banner day today. And I like this job.

So either way.

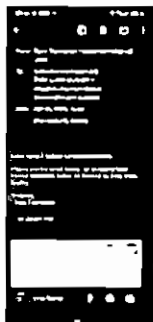
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2 attachments



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Compose

Mail

Inbox 40,037

Starred

Snoozed

Important

Sent

Drafts 166

Categories

Social 3,566

Updates 66,757

Forums 724

Promotions 20,454

More

Labels

**Dragon And Koi 245

bitpath

Conversation History

Thompson vs. Mercer

Inbox x

E

EDDY CASH-DUDLEY

to ksim, me

Kate, the temporary restraining orders were not modified to allow the parties to have contact so there can be no mediation. In issues related to their business. We have decided to go ahead and file a lawsuit to dissolve the business and the court might Thanks for your consideration of the tro's. Tell Eric hi for me.

Eddy Cash-Dudley

Attorney at Law

efcashdudley@gmail.com

(808) 854-5912



Ryan Thompson <techpronow@gmail.com>

to EDDY, ksim

Aloha Kate and Eddy,

So as I remember for court, when Mrs. Cash Dudely served the TRO on me, so also passed me a request for mediation. I the mediation from the judge. I have not gotten new paperwork for the continuance that we have for April 24th for the show grant that request.

Either way, what we are seeing here is a state mate, because as Mrs. Cash-Dudley pointed out in her request for mediation I agreement (Section IX) requires us to go to mediation before any court filings.

So I believe this is a breach of contract as well, if they say they are going to proceed to a lawsuit without the mediation.

FAMILY COURT OF THE THIRD CIRCUIT
STATE OF HAWAII

Ryan Richard
Thompson Defendant

3FDA-23-0000296

-vs-

Elly Odette Mercer
Plaintiff

REQUEST FOR EXCEPTION FOR MEDIATION IN TRO

With regard to the Temporary Restraining Order 33FDA-23-0000296 Ryan Thompson vs. Elly Mercer

While in court for show of cause on April 10th 2023 for this TRO filed by Ryan Thompson vs Elly Mercer 3FDA-23-0000296, Elly Mercer's attorney Mrs. Cash-Dudley did serve a notice requesting mediation, during the hearing, and she made a note of it to the judge, and she asked the judge for an exception for these business matters. As it is required for us to communicate for our business.

I am not clear if that request was granted. To my recollection the request was granted for Elly Mercer and myself to have communication regarding this business matter. We have a business that needs mediation, and therefore I also am now requesting that the courts make an exception for mediation in this case, only via Zoom (online meeting) and for only this purpose.

In our operating agreement, Article IX, we are required to go through mediation in order to file law suits in our business.

Please grant the except for both TROs.

3FDA-23-0000296

3FDA-23-0000310

Both cases are to be heard on April 24th 2023. But we need immediate relief based on these circumstances

STATE OF HAWAII

COUNTY OF HAWAII

SUBSCRIBED AND SWORN TO BEFORE

ME, on the _____ day of
_____, _____

Signature _____

(Seal)

NOTARY PUBLIC

My Commission expires:

Ryan Thompson

(Signature)

Ryan Richard Thompson



Ryan Thompson <techpronow@gmail.com>

Mediation for Dragon and Koi LLC Ryan Thompson / Elly Mercer

EDNA CASH-DUDLEY <efcashdudley@gmail.com>
To: Ryan Thompson <techpronow@gmail.com>

Wed, Apr 26, 2023 at 5:44 PM

My client does not agree to mediation. Eddy

Sent from my iPhone

On Apr 26, 2023, at 4:08 PM, Ryan Thompson <techpronow@gmail.com> wrote:

Aloha Barbara Franklin, and Eddy Cash-Dudley,

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Mahalo

[Quoted text hidden]
<img-0.png>



Ryan Thompson <techpronow@gmail.com>

Operating agreement Dragon and Koi LLC

Ryan Thompson <ryan@dragonandkoi.com>

Sun, Apr 9, 2023 at 5:32 PM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, Peggypetersenemail@gmail.com

Aloha Mrs. Cash-Dudley,

Elly may be able to share with you a "buy out agreement" that I offered her in January. That was of course BEFORE the store was open, and before I put in significant work in the construction and design of the store. Now that the store is open, as per my original agreement that I offered. My price would be higher for a fair buyout.

I would also offer to buy Elly out of this business as well. We can talk details. I wouldn't be able to offer a cash buyout. But I would be able to offer payments of a percentage of the monthly profits. Elly could also take her Sassafras Hawaii Jewelry out of the store, and I would replace it with something else.

My thought is, on either side of the buy out. The price would be something in the range of \$50,000. Monthly payments could be made at around \$5000 until the total is paid in full. Or on whatever percentage we decide, whichever is higher.

If I buy out Elly, I would assume the American Express debt, that belongs to the business, and the \$15,000 debt that is owed to the other bank as well. A total of about \$17000 there, and roughly \$6000 to Lowes (but Dragon and Koi LLC would take the write off, not Sassafras Hawaii LLC)..

And if Elly buys me out, then she would assume all of those debts on her end.

Either way, the total buy out would be the same for either party. I would take monthly payments as well, if bought out.

However, I am happy to continue operating this business, and with Elly not being my business partner, I could actually hire, and operate this business properly.

There is no need for either of us to suffer being partners any more. But I do expect compensation for all of my efforts, and intellectual contribution in design and building, etc.

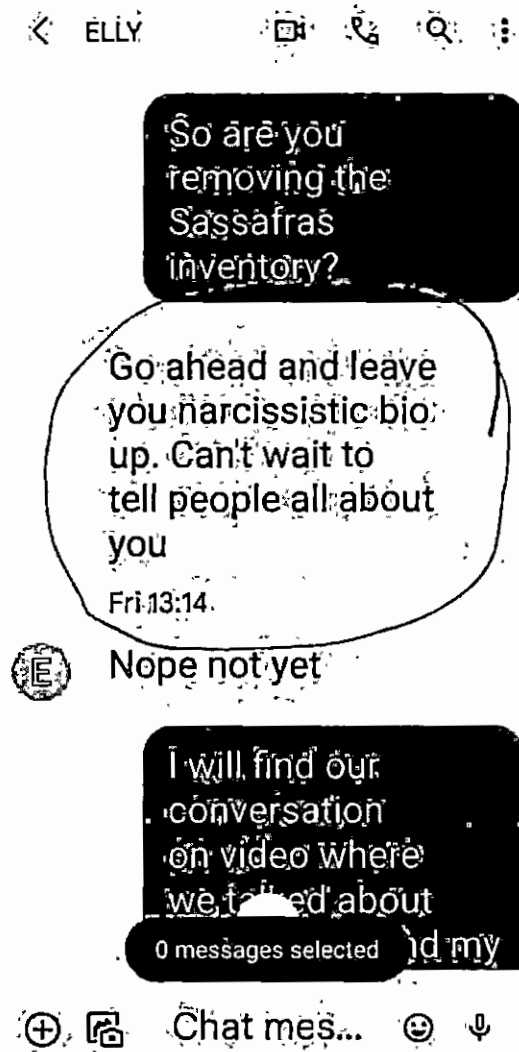
\$50,000 seems extremely reasonable.

Mahalo!

[Quoted text hidden]

Enclosure from cease and desist letter.

Evidence A: Description Screen shot of text message from Elly Mercer threatening to slander me:



Evidence B: Description; Video footage of Elly Mercer actually slandering Ryan Thompson to a client:

<https://bit.ly/40VJi8a>

The video is stored on Google Drive, using the link above will allow you to view it.



peggy



11/11 results found

Exhibit J



But that is great of
her to cover, I may
not be able to find
someone on short
notice

No need ellys
willing to cover. Feel
free to take the sign
down. What days
are you needing?



As the COO, and as
Elly and I discussed
and agreed on,
hiring critical



Text mess...



Exhibit K

Ryan Thompson
64-5284 Kekeahu St
Kamuela, Hawaii 96743
808-365-6629

April 07, 2023

Elly O Mercer
75-5744 All'i Drive, Suite 141
Kailua-Kona, Hawaii 96740
8089371930

RE: Cease & Desist from Harassment

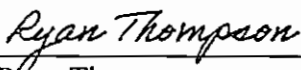
Dear Elly O Mercer:

I am writing you this letter to document a period of harassment I received from you starting April 04, 2023. Such conduct has caused me to suffer severe humiliation, embarrassment, emotional distress, and physical discomfort.

Slander and Defamation of Ryan Thompson an owner at Dragon and Koi LLC's shop located at; 75-5744 alii drive ste 141, Kailua Kona, HI 96743

I demand that you cease and desist from this activity as soon as possible and, in any event, within 10 days from your receipt of this letter. If action is not taken by you to cease and desist within the given time frame, I will have no choice but to take appropriate legal action against you.

Sincerely,



Ryan Thompson

Enclosure:

Elly Mercer threatening to slander me, in a recent SMS conversation, and then a video of the actual slander to a customer of our mutual business;

March 31st 2023

Audio file located at: <https://bit.ly/40O75Gd>

Unknown Speaker 0:00

No one wants any police fire medical.

Unknown Speaker 0:05

No, my my car is stolen.

Unknown Speaker 0:09

So you need police my boyfriend who assaulted me. So you need police

Unknown Speaker 0:14

and the police? What is the address?

Unknown Speaker 0:22

71 1753

Unknown Speaker 0:27

who's not?

Unknown Speaker 0:29

gonna

Unknown Speaker 0:32

live on St. Paul on a ranch? And then who am I speaking to?

Unknown Speaker 0:37

Elly Mercer? How do you spell your first name?

Unknown Speaker 0:41

E l l y.

Unknown Speaker 0:44

So your boyfriend stole your car

Unknown Speaker 0:48

after he assaulted me.

Unknown Speaker 0:50

So you need medical assistance?

Unknown Speaker 0:53

No.

Unknown Speaker 0:55

This police need to report my car stolen.

Unknown Speaker 0:59

What is your boyfriend's name?

Unknown Speaker 1:01

Ryan Thompson th THOMPSON How old is he?

Unknown Speaker 1:07

46

Unknown Speaker 1:09
And what What car did he take

Unknown Speaker 1:13
a white jeep cherokee

Unknown Speaker 1:16
what is the license plate on it

Unknown Speaker 1:20
can you see

Unknown Speaker 1:25
he's still my glasses

Unknown Speaker 1:28
are in the third row kicked me out. Okay, yes. So I'm like to confirm you do not need medical attention because you keep repeating that to me.

Unknown Speaker 1:37
I do not need medical attention I probably have a burden I will be okay

Unknown Speaker 1:49
thank you

Unknown Speaker 1:58
okay, so what is the license plate on your vehicle?

Unknown Speaker 2:04
I'm trying to find that I had my phone you are the registered owner

Unknown Speaker 2:10
Yes, I am. You it's registered under you.

Unknown Speaker 2:16
Yes

Unknown Speaker 2:19
Okay, I don't know if you need to stay in one place but you having a very bad connection

Unknown Speaker 2:25
I am standing in one place sorry

Unknown Speaker 2:31
I believe it starts with h y.

Unknown Speaker 2:34
But I can't find any evidence of my insurance paperwork or anything it's all in the car

Unknown Speaker 2:44
No, this is from the DMV.

Unknown Speaker 2:47

But so where did he go?

Unknown Speaker 2:49

He probably went to my house in Waimea so he's had it from Kona to Waimea upper road ...

Unknown Speaker 2:59

and that my parents house I pulled into their development and we were fighting

Unknown Speaker 3:07

so were you guys physical verbal

Unknown Speaker 3:08

Both

Unknown Speaker 3:14

and he stole your phone

Unknown Speaker 3:17

so my phone into my car so my my glasses you steal everything and kicking out literally in the dirt

Unknown Speaker 3:24

is assaulted me punched me in the face. And okay, yeah, if you'd like to keep repeating that I'm gonna keep asking you the question do you need medical attention?

Unknown Speaker 3:33

I do not need medical attention. I just want it recorded that that happened. I understand that but every time he asked you tell that I'm gonna have to ask you if you need medical attention

Unknown Speaker 3:44

okay

Unknown Speaker 3:50

okay, we're gonna have an officer meet with you. Is there a vehicle to get in there?

Unknown Speaker 3:56

Is there a gate code

Unknown Speaker 4:01

0137

Unknown Speaker 4:04

and push call and we will

Unknown Speaker 4:08

take the second right where the first house on the right

Unknown Speaker 4:15

so there's the second house on the right.

Unknown Speaker 4:18

Is the first house on the right. The second right. First house on the right.

Unknown Speaker 4:28

The lights are on.

Unknown Speaker 4:30

Yeah.

Unknown Speaker 4:35

Okay, all right. Well have an officer me with you.

Unknown Speaker 4:39

Okay, how soon do you know as soon as they're available?

Unknown Speaker 4:43

Thank you, ok. Bye.



Ryan Thompson <techpronow@gmail.com>

No communication about inventory

6 messages

Ryan Thompson <techpronow@gmail.com>

Sun, Apr 30, 2023 at 4:19 PM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com

Since Elly has removed inventory and since we are running low on wooden watches. I will be ordering inventory.

Elly had said that she would be removing her Sassafras line as well as what she already removed.

So I need to know if I need to replace just the inventory that we are running low on? Or do I also need to order for replacing the Sassafras line too?

Attaching screenshots of Elly telling me she will be taking her Sassafras Jewellery of the store, shortly after she had removed the gold jewelry that was in the store.

So I need to know what's next. So I can prepare to replace what is needed to be replaced.

Best regards,

Ryan Thompson

Phone: 808-206-7399

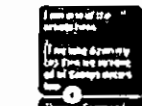
Mobile: 808-365-6628

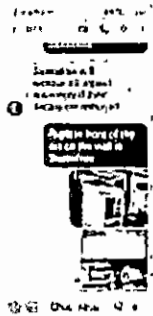
Calendar/Schedule Appointment

<https://calendly.com/techpronow>

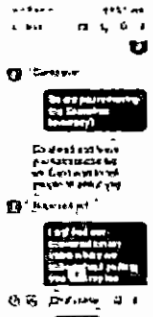
3 attachments

Screenshot_20230430_161615_Messages.jpg
586K





Screenshot_20230430_161626_Messages.jpg
622K



Screenshot_20230430_161641_Messages.jpg
547K

Ryan Thompson <techpronow@gmail.com>

Sun, Apr 30, 2023 at 4:19 PM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com

We are down to only 3 wooden watches

[Quoted text hidden]

[Quoted text hidden]

Ryan Thompson <techpronow@gmail.com>

Sun, Apr 30, 2023 at 4:56 PM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com, ksims@whmediation.org

We still need mediation on how we are going to handle inventory and ordering etc

I've included West Hawaii Mediation.

So we are not getting updates for our inventory to and from each other.

I am unable to find 3d Manta Pendants and earrings

Watches need to be ordered

Let's go to mediation as your client requested on April 9th.

Mahalo

Best regards,

Ryan Thompson

Phone: 808-206-7399

Mobile: 808-365-6628

Calendar/Schedule Appointment
<https://calendly.com/techpronow>

On Sun, Apr 30, 2023, 16:19 Ryan Thompson <techpronow@gmail.com> wrote:
[Quoted text hidden]



20230430_165337.jpg
5750K

Ryan Thompson <techpronow@gmail.com>

Tue, May 2, 2023 at 10:32 AM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com, ksims@whmediation.org

No reply about inventory?

I see Elly is not cooperating. Her lawyers are no cooperating.

And despite Elly originally asking for mediation.

She is also not willing to mediate as required in section IX of the operating agreement before filing a lawsuit.

I see the lawsuit has been filed.

I have been willing to attend mediation.

I even filed a motion in court to allow for business mediation in the TRO but Ms Mercer refused.

There are a lot of points in your lawsuit that are incorrect.

1. That I was still occupying the house on April 28th.

I gave you notice that I was leaving on April 26th and I signed a new lease on April 26th.

Documented.

Plus Barbara gave me notice that I had a valid lease until May 29th aka a 45 day notice to end the "month to month lease"

Documented

It says in the lawsuit that I sold earrings for 0.56 cents.

I looked in the pos system and there have been no sales for under \$1 since the beginning.

We had the discussion about the earrings and I sold them for the price they were marked for which was \$89. I documented that too and sent you the video of how Elly had marked the exact same earring for 3 different prices.

I sold them for the price that the customer saw marked on them.

There are a few other things in your lawsuit that are untrue.

I saw that you said I violated the restraining order on April 25th.

If you mean when I was driving down Ali'i Drive to look at a new apartment that was a block away and Elly saw me and came out to the street. Well it's on my dash cam. I didn't stop. Therefore I didn't violate everything

I live and work in this neighborhood.

Documented

So I will be making regularly trips down Alii drive.

Elly has the choice to engage or not.

She chooses to engage even if I'm just driving down the street.

That is her attempting to violate the restraining order.

I can and will prove all of these things.

Mahalo for your time

Best regards,

Ryan Thompson

Phone: 808-206-7399

Mobile: 808-365-6628

Calendar/Schedule Appointment
<https://calendly.com/techpronow>

On Sun, Apr 30, 2023, 16:19 Ryan Thompson <techpronow@gmail.com> wrote:

[Quoted text hidden]

Ryan Thompson <techpronow@gmail.com>

Tue, May 2, 2023 at 11:16 AM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com, ksims@whmediation.org

Two more points.

1. It says in the lawsuit that I have missed "days" of work.

In reality I missed only 1 day, and it was due to your client assaulting me, and me having to attend 3 court dates in one day.

That was not a choice I had, and it was your client's actions that caused that missed day. I wouldn't be in court had she not attacked me.

2. It says your client sustained injuries when she attacked me. Which is odd, because she thrice refused medical assistance when on the phone with dispatch, and refused it in jail. But also, sometimes when you attack someone, injuries do happen. Sadly for both of us. I couldn't help that.

There are various other things. I already efiled my response with evidence.

Mahalo

Your client often leaves

[Quoted text hidden]

--

Best regards,

Ryan Thompson

Phone: 808-206-7399

Mobile: 808-365-6628

Calendar/Schedule Appointment
<https://calendly.com/techpronow>

HiHello For Ryan

Disclaimer;

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

Ryan Thompson <techpronow@gmail.com>

Tue, May 2, 2023 at 11:22 AM

To: EDDY CASH-DUDLEY <efcashdudley@gmail.com>, barbara@island-law.com, ksims@whmediation.org

Also one more point.

It says that I haven't worked with jewelry?

I have made jewelry since I was 17 years old, starting with making and selling chain mail necklaces and bracelets. I have an affidavit from my Christian group in Washington, who were some of my best customers 30 years ago.. I have had 5 of my own brick and mortar stores, and this store with Elly, 4 out of 6 of those stores we sold jewelry in them. My kids made jewelry their entire lives that we sold in our stores.

So that is another false statement in your lawsuit.

[Quoted text hidden]